

118 FERC ¶ 61, 095  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
and Jon Wellenghoff.

Midwest Independent Transmission  
System Operator, Inc.

Docket No. ER05-273-000

ORDER DENYING PROPOSED TARIFF REVISIONS

(Issued February 14, 2007)

1. In this order, based on our review of the record developed at hearing and the briefs submitted in this proceeding, we deny Midwest Independent Transmission System Operator, Inc.'s (Midwest ISO) proposed revisions to section 22.2 of its Transmission and Energy Markets Tariff (TEMT) as not consistent with or superior to the Order No. 888 *pro forma* tariff.<sup>1</sup>

**Background**

2. On November 30, 2004, Midwest ISO filed proposed revisions to its tariff related to non-firm redirected service under its TEMT. Specifically, Midwest ISO proposed to add language to section 22.2 such that a Firm Point-To-Point Transmission Customer that redirected its original reservation on a non-firm basis over receipt and delivery points other than those originally reserved (*i.e.*, secondary receipt and delivery points) would be charged the higher of: (1) the rate associated with the original Firm Point-To-Point Transmission Service reservation that was redirected; or (2) the rate for the Non-Firm Point-To-Point Transmission Service obtained over the secondary receipt or delivery

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<sup>1</sup> *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

point. Midwest ISO also proposed to remove references to “transmission path” and “difference between the zonal rates” to clarify that section 22.2 is based on the additional costs associated with new service. Midwest ISO’s proposed language also provided that “any portion of the original Firm reservation not redirected will be charged the original Firm reservation rate.”

3. On January 28, 2005, the Commission issued an order accepting and suspending the section 22.2 revisions filed by Midwest ISO, effective January 20, 2005, subject to refund and the outcome of a hearing.<sup>2</sup> The Commission held the hearing in abeyance to provide time for settlement judge procedures. DTE Energy Trading Inc. (DTET) timely requested rehearing of the January 28 Order, arguing that the Commission should reject the proposed tariff amendments as deficient and order retroactive refunds. On June 24, 2005, the Commission issued an Order on Rehearing<sup>3</sup> in which it dismissed in part and denied in part DTET’s rehearing request.

4. On February 9, 2005, a settlement judge was appointed. Settlement procedures were ultimately unsuccessful and an administrative law judge was appointed to preside over the required hearing.

5. Pursuant to Rule 710 of the Commission’s Rules of Practice and Procedure,<sup>4</sup> the active parties to the proceeding filed a joint motion to waive the evidentiary hearing and initial decision in this docket. Movants stated that no participant had objected to waiver of the evidentiary hearing and initial decision. Movants further stated that the issues set for hearing focus almost exclusively on Commission policy concerning transmission pricing, and the application of that policy to Midwest ISO’s proposed revisions to section 22.2. The Commission granted the movants’ motion in an order issued on November 17, 2005.<sup>5</sup> Further, the Commission directed that initial and reply briefs should be filed directly with the Commission on December 22, 2005, and February 1, 2006, respectively.

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<sup>2</sup> *Midwest Independent Transmission System Operator, Inc.* 110 FERC ¶ 61,081 (2005) (January 28 Order).

<sup>3</sup> *Midwest Independent Transmission System Operator, Inc.*, 111 FERC ¶ 61,462 (2005).

<sup>4</sup> 18 C.F.R. § 385.710 (2006).

<sup>5</sup> *Midwest Independent Transmission System Operator, Inc.* 113 FERC ¶ 61,176 (2005).

6. Initial briefs were filed by Midwest ISO, Midwest ISO Transmission Owners<sup>6</sup> (Transmission Owners), Midwest Stand-Alone Transmission Companies (MSAT Companies),<sup>7</sup> Constellation Energy Commodities Group, Inc. (Constellation), DTE Energy Trading, Inc. (DTET), and Commission Trial Staff (Staff). Reply briefs were filed by Midwest ISO, Transmission Owners, MSAT Companies, Constellation, DTET and Staff.

### **Initial Briefs**

#### **Midwest ISO**

7. Midwest ISO asserts that its proposed changes to section 22.2 of its TEMT are just and reasonable and have been adequately supported. It further asserts that its proposed changes are consistent with the Commission's redirect policy and that the Commission should accept its proposal in total.

8. In particular, Midwest ISO states that it is proposing to calculate an additional charge to prevent abuse under section 22.2 of its TEMT, based on "the higher of:

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<sup>6</sup> The Midwest ISO Transmission Owners consist of: Ameren Service Company, as agent for Union Electric Company d/b/a AmerenUE, Central Illinois Public Service Company d/b/a AmerenCIPS, Central Illinois Light Co. d/b/a AmerenCILCO, and Illinois Power Company d/b/a AmerenIP; American Transmission Systems, Inc., a subsidiary of First Energy, Corp; Alliant Energy Corporate Services, Inc., on behalf of its operating company affiliate Interstate Power and Light Company (f/k/a IES Utilities Inc. and Interstate Power Company); Aquila, Inc. d/b/a Aquila Networks (f/k/a Utilicorp United, Inc.); Cinergy Service, Inc. (for Cincinnati Gas & Electric Co., PSI Energy, Inc. and Union Light, Heat & Power Co.); City of Columbia Water and Light Department (Columbia, MO); City Water, Light & Power (Springfield, IL); Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; E.ON U.S. LLC (for Louisville Gas and Electric Company and Kentucky Utilities Company); Lincoln Electric System; Manitoba Hydro; Minnesota Power (and its subsidiary Superior Water, L&P); Montana-Dakota Utilities Co.; Northern Indiana Public Service Company; Northern States Power Company and Northern States Power Company (Wisconsin), subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Company; Otter Tail Corporation d/b/a Otter Tail Power Company; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company (d/b/a Vectren Energy Delivery of Indiana); and Wabash Valley Power Association, Inc.

<sup>7</sup> The MSAT Companies include American Transmission Company LLC, International Transmission Company, and Michigan Electric Company, LLC.

(1) the rate associated with the original Firm reservation that was redirected; or (2) the rate for the Non-Firm Transmission Service obtained over the Secondary Receipt or Delivery Points.”

9. Midwest ISO explains that for each hour of the redirect period, it will charge the redirecting Transmission Customer based on: (1) the megawatt (MW) amount of service redirected, multiplied by (2) the higher of (i) the on-peak or off-peak rate currently in effect for the hourly non-firm point-to-point transmission service obtained over the secondary receipt and/or delivery points; or (ii) the firm reservation rate in effect at the time the reservation was queued, prorated on an hourly basis by using either on-peak or off-peak pro-rationing, depending on whether the redirect occurred during an on-peak or off-peak period. Midwest ISO further explains that it will credit the redirecting Transmission Customer for each hour in which redirected service has been obtained based on the MW amount of service redirected, multiplied by the currently effective annual firm reservation rate prorated on an hourly basis. According to Midwest ISO, the positive difference between the charge and the credit would constitute the applicable section 22.2 charge for each hour in which service has been redirected .

10. Midwest ISO adds that the existing capping provisions under schedule 8 of its TEMT would apply to non-firm redirect requests. Under its proposal, the requests would be treated independently, for capping purposes, from the original firm reservation and from any other non-firm redirect service requests by the same Transmission Customer during the same day or week.

11. Midwest ISO explains that it proposed the tariff revisions to ensure that any Firm Point-to-Point Transmission Service Customer that chooses to redirect on a non-firm basis must pay in accordance with the value of the service actually received. Midwest ISO believes that if a firm customer obtains non-firm redirect service during a higher-valued on-peak period, it should pay an incremental charge reflecting the higher value of the service it has received. It also maintains that, absent the proposed change, an opening to “game” the system is created.

12. Midwest ISO asserts that its proposal is not unprecedented. It argues that its peak pricing proposal would not result in any over recovery of transmission revenue because it proposes, in accordance with the *Appalachian* method<sup>8</sup>, to adopt the existing daily and weekly rate caps applicable to Non-Firm Point-to-Point Transmission Service rates under

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<sup>8</sup> *Appalachian Power Company*, 39 FERC ¶ 61,296 (1987). The “*Appalachian*” Method is premised on the assumption that a customer who uses the transmission system for the 16 peak hours of the day should pay the same contribution to fixed costs as a customer who has reserved capacity on a daily basis, reasoning that even though the hourly customer is not using the system during the eight off-peak hours, it is tying up the system during the prime hours when most, if not all, off-peak system sales are made.

schedule 8 of its TEMT. It also points to the formula rate design it has adopted and to the credit it proposes to provide on the redirecting customer's firm reservation as proof that there would be no over recovery or double charging.

13. Midwest ISO does not dispute that the *pro forma* OATT provides that a non-firm redirect should be provided at no additional charge. However, it emphasizes that since Order No. 888, the Commission has accepted tariff revisions to provide for an additional charge for non-firm redirects, particularly where multi-zonal transmission providers were involved. It adds that MAPP currently uses the "higher of" peak pricing for non-firm redirects, which was approved by the Commission.

14. Midwest ISO further asserts that the opposing parties' policy arguments should be rejected because they do not take into account changes that have occurred in the electric industry since the adoption of Order No. 888. Midwest ISO states that when Order No. 888 was issued, there were no multi-zonal regional transmission organizations or independent system operators and the need for such change could not be easily foreseen.

15. In more detail, Midwest ISO explains that by explicitly introducing the "higher of" standard, it seeks nothing more than to confirm that the *Appalachian* rate design principles that already apply to Midwest ISO are applicable to the pricing of non-firm redirect service and that the higher value of the on-peak hourly service is recognized as part of the zonal rate difference for purposes of non-firm redirect pricing. It argues that there is no sound reason for not extending these principles to non-firm redirect service. It adds that not applying the *Appalachian* principles to non-firm redirects would result in a *de facto* discount for a valuable service to a selective group of non-firm transmission customers while other customers obtaining non-firm service during on-peak hours over the same path would continue to pay the full price.

16. Midwest ISO also takes issue with the argument that the non-firm redirect service should not be compared to other non-firm services because it is, instead, an integral part of the parent firm point-to-point transmission service received by the redirecting customer. It asserts that Order No. 888 recognizes that a separate, non-firm transmission service is provided over the redirecting customer's secondary receipt and delivery points. Because it is a separate and distinct service, Midwest ISO argues that it should be priced on its own merits.

17. Midwest ISO further views its non-firm redirect option as a premium feature, which provides redirecting customers with a competitive advantage that should be priced accordingly. Midwest ISO explains that the redirect option creates a flexibility that allows the redirecting customer to use a non-firm hourly service while retaining residual rights to the original transmission path.

18. Midwest ISO further states that firm reservations may be purchased merely to hold a path, rather than to support a specific bilateral transaction that matches precisely the terms of the reservations. It states that because many customers have diverse portfolios of transactions across the Midwest ISO system, they often have transactions that could utilize a number of non-firm paths in any given hour. Consequently, it maintains that for any hour when a firm point-to-point transmission service customer has no transactions that can utilize the original firm reservation, the ability to redirect gives such a customer the right to not pay for a portion of its firm reservation and instead pay for a secondary path over which service is redirected on a non-firm basis.

19. In response to arguments that non-firm redirect is not a pending service because it has the lowest curtailment priority, Midwest ISO contends that curtailment or reservation priority is only one characteristic of transmission service and, of itself, does not affect price. Further, in response to DTET's claim that the value of non-firm redirect service has been degraded due to the advent of energy markets in the Midwest ISO, and thus should not command a premium price, Midwest ISO states that its rates remain cost-based and the cost basis has not changed. Also, there has not been any appreciable degradation in the value of non-firm service. Finally, Midwest ISO rejects the argument that it has been properly compensated for its premium nature due to the Commission's adoption of the average 12 monthly system peak rate design in the Midwest ISO. It asserts that the Commission permitted the adoption of the average 12 monthly system peaks rate design and established a lower priority for non-firm redirected service as a compromise in response to the argument that it was unreasonable to give to firm point-to-point transmission service customers the option of redirecting service on a non-firm basis at no charge while, at the same time, requiring network customers to purchase transmission service for their off-system sales. It asserts that that is not the issue here, but rather, whether firm customers should pay an additional charge to reflect the value of the service they receive.

20. Midwest ISO supports applying the *Appalachian* peak pricing principles to non-firm redirect service and contends that the Commission has approved peak pricing for non-firm redirects in the Mid-Continent Area Power Pool (MAPP), whose tariff contains language that is virtually identical to that proposed by Midwest ISO.<sup>9</sup>

21. With respect to concerns about overcharging, Midwest ISO states that transmission customers taking redirect service would not be paying more than the applicable daily firm rate. Midwest ISO explains that it has implemented this requirement through the non-firm rate caps set forth in Schedule 8 of its TEMT. Midwest ISO explains that these caps provide that the total demand charge in any week, pursuant to a reservation for daily delivery, is capped and may not exceed the weekly rate times

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<sup>9</sup> Citing *Mid-Continent Area Power Pool*, 88 FERC ¶ 61,157, at 61,533 (1999) (MAPP Order).

the highest amount of kilowatts of Reserved Capacity in any day during the week. Midwest ISO states that the total demand charge in any day, pursuant to a reservation for hourly delivery, is capped and may not exceed the daily rate times the highest amount in kilowatts of Reserved Capacity in any hour during such day. Midwest ISO states that it would apply the same principles to non-firm redirects. Specifically, it would treat non-firm redirects, for purposes of capping, independently from the original firm reservation and from any other non-firm redirect service requests by the same customer during the same day or week.

22. Midwest ISO further assures that there would be no double charging under its proposal. According to Midwest ISO, the redirecting customer would receive a credit on its firm reservation for the entire period of the redirect. Midwest ISO further explains that its proposal would not enrich Transmission Owners because it is revenue neutral. The revenue Transmission Owners receive from redirected firm point-to-point transmission service would be credited, on an annual basis, to transmission owner revenue requirements, which are used to calculate the transmission rates assessed by Midwest ISO.

23. Midwest ISO further argues that the nature of its proposal does not limit redirect flexibility because the redirecting customers would not be paying additional charges if they obtain non-firm redirects during off-peak hours and, during on-peak hours, the additional charge would be substantially less than a new charge for on-peak hourly non-firm point-to-point service. It explains that the redirecting customer would receive a credit on its firm reservation, thereby reducing the additional charge to a net increment that reflects precisely the value of the on-peak hourly service it receives vis-à-vis the off-peak hourly service.

24. Finally, Midwest ISO asserts that the Commission should reject the peak pricing and capping proposals made by Constellation and Staff.

#### **Transmission Owners (Supporting Midwest ISO)**

25. Transmission Owners argue that a non-firm redirect customer, like all other customers, should pay for peak period usage. Further, Transmission Owners support Midwest ISO's proposal to apply the standard cap in its TEMT which it applies to all transactions. Finally, Transmission Owners assert that Midwest ISO's proposal is reasonable; however, if the Commission orders changes, Transmission Owners request any relief be prospective only.

26. In particular, Transmission Owners argue that Midwest ISO's proposal to charge customers for the additional value associated with peak period transmission use is reasonable and consistent with Commission policy and precedent. Transmission Owners argue that although Order No. 888 afforded transmission customers taking firm point-to-

point service the right to request transmission service on a non-firm basis to secondary receipt and/or delivery points from those under its original reservation at no additional charge, this policy was developed when industry conditions were much different than at present. They state that the industry has changed from one primarily consisting of individual vertically-integrated utilities with only single pricing zones to one with RTOs with regional transmission tariffs and multiple pricing zones. They explain that transmission customers are no longer limited to accessing secondary points within the same pricing zone, but can now reserve firm point-to-point transmission service to a lower-priced zone and redirect that service on a non-firm basis to a sink in a higher-priced zone. They conclude that the Commission's "no additional charge" policy under Order No. 888 is inapplicable to non-firm redirect service in an RTO with a license plate rate structure, like the Midwest ISO. Indeed, they emphasize that the Commission has approved the use of the "higher of" pricing standard to capture the additional charges associated with regional transmission tariffs when a customer redirects its service on a non-firm basis.<sup>10</sup>

27. Transmission Owners go on to explain that the Commission has a longstanding practice of pricing transmission for on-peak and off-peak periods. They point to *Appalachian* pricing as evidence of the Commission's recognition of the value of peak period pricing.

28. Transmission Owners attest to the reasonableness of Midwest ISO's proposal by citing *Aquila Merchant Service, Inc. v. Southwest Power Pool*,<sup>11</sup> wherein the Commission dismissed a complaint against SPP's application of its weekly demand charge cap to firm redirect service noting that caps are relevant only when peak period pricing is used. Transmission Owners also refer to MAPP's peak period pricing for non-firm redirects under MAPP's regional transmission tariff discussed above.<sup>12</sup>

29. Transmission Owners add that Midwest ISO's proposal is not taking away benefits to redirecting customers. They state that a redirecting customer will still pay less than the

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<sup>10</sup> *Citing Southwest Power Pool*, 82 FERC ¶ 61,267 (1998) (SPP). (The Commission accepted revised tariff language providing that a firm point-to-point transmission customer that redirects its service on a non-firm basis would be responsible for the difference between the higher rate for the use of secondary receipt and delivery points and the rate associated with the original points of receipt and delivery.)

<sup>11</sup> *Aquila Merchant Service, Inc. v. Southwest Power Pool*, 113 FERC ¶ 61,056 (2005) (*Aquila*).

<sup>12</sup> *Citing* MAPP Order.



full peak period price, as there will be a revenue credit based on the transmission charge for its original reservation for the duration of the non-firm redirected service.

30. Transmission Owners also contend, as Midwest ISO does, that a transmission customer would be provided the opportunity to game the system by reserving firm point-to-point service into a lower-priced zone and redirect the service on a non-firm basis to a sink in a higher-priced zone for peak periods at a lower cost than would apply if the transmission customer purchased a separate non-firm on-peak service into a higher-priced zone.

31. Transmission Owners take issue with the argument that non-firm redirect service is “part of” a transmission customer’s firm reservation and not a separate non-firm service. They maintain that under Midwest ISO’s TEMT, a firm point-to-point service is from a specified point of receipt to a point of delivery. They argue that non-firm redirect service is a different service by definition because it involves service to either different points of receipt or delivery or both. While the transmission customer receives a credit for its original reservation, they assert that does not change the nature of the non-firm redirect service, but rather, it remains a different service. Thus, they maintain that the Schedule 8 capping provisions are applicable to non-firm redirect service.

32. Lastly, Transmission Owners request that no refunds be adopted and any potential tariff changes be made on a prospective basis. They state that there has been no improper windfall due to the operation of Midwest ISO’s tariff proposal and that the filing is akin to a rate design change. Further, because transmission revenues received from non-firm redirect service are credited back to transmission owner revenue requirements and go to reducing the transmission rates in the following year, Transmission Owners have not received any financial benefit. They also state their concern that although Midwest ISO implemented the proposed tariff, Transmission Owners would ultimately be responsible for any refunds. Since Midwest ISO customers relied on this rate design pricing when they entered into non-firm redirect transactions after the tariff became effective, Transmission Owners express concern that changing Midwest ISO’s tariff retroactively would require complex changes with regard to the transmission revenues associated with the prior deals.

### **Midwest Stand-Alone Transmission Companies (Supporting Midwest ISO)**

33. MSAT Companies also support Midwest ISO’s proposal. MSAT Companies agree that the exercise of a non-firm redirect right results in the provision of non-firm point-to-point transmission service, and that it is therefore appropriate to price the service using the Midwest ISO rate structure applicable to non-firm point-to-point transmission service. MSAT Companies argue that non-firm redirect service is provided on a non-firm basis similar to basic non-firm point-to-point transmission service. MSAT Companies

further state that the large regional, multi-scope of Midwest ISO enables transmission customers to use their non-firm redirect rights to participate in non-firm point-to-point transactions that could bear little or no resemblance to the customers' underlying firm reservation.

34. MSAT Companies state that based on the assumption that non-firm redirect service is non-firm point-to-point transmission service and, thus, it should be priced under Schedule 8 of Midwest ISO's tariff, which includes time-of-use pricing. MSAT Companies cite *Aquila* and *SPP* to justify their contention that if the Commission accepts that the exercise of a non-firm redirect right results in the provision of a new non-firm point-to-point transmission service, then it is appropriate to price that new service using the pricing structure in the tariff that is generally applicable to that service. MSAT Companies explain that customers obtaining the service through the exercise of a redirect right should not be afforded an anticompetitive advantage over customers obtaining the service on a stand-alone basis. MSAT Companies also refer to MAPP's peak period pricing for non-firm redirects under MAPP's regional transmission tariff as being identical to Midwest ISO's proposal, as discussed above.

35. MSAT Companies argue that the Commission should evaluate Midwest ISO's proposed revisions in light of the development and operation of wholesale electric markets. It references the Notice of Inquiry (NOI) issued by the Commission<sup>13</sup> on September 16, 2005, wherein the Commission acknowledged that the electric industry has changed considerably since Order No. 888 was issued and expressed a preliminary view that certain policies (including redirect provisions) be reformed to reflect lessons learned during the electric utility industry's and the Commission's experience with open access transmission.

36. MSAT Companies argue that Midwest ISO's proposal does not increase costs to consumers as a whole. It states that the Midwest ISO uses formula rates under which revenue collected from point-to-point transmission service is credited against a transmission owner's revenue requirements for the following year. Thus, it asserts, to the extent that more point-to-point revenue is collected during one year, base transmission rates during the following year are reduced.

37. MSAT Companies further argue that the Commission should not approve any of the "higher of" carve-outs proposed by certain witnesses for redirects involving changes to source zones, or redirects to lower or equally-priced sink zones. MSAT Companies also argue that the Commission should not accept Constellation's proposal to revise Midwest ISO's crediting methodology. They assert that Constellation's proposal that the

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<sup>13</sup> *Preventing Undue Discrimination and Preference in Transmission Services*, FERC Stats. & Regs. ¶ 35,553 (2005).

formula used to calculate credits should vary depending on whether a redirect occurs during a peak or off-peak hour<sup>14</sup> would result in a disconnect between the annual firm reservation paid by the customer for firm point-to-point service and the credit provided when a firm point-to-point reservation is reduced as a result of a redirect. MSAT Companies further assert that they are not in principle opposed to the suggestion that redirects be allowed on something other than an hourly basis, but believe the matter is beyond the scope of the proceeding. MSAT Companies further state that they take no position with respect to suggested changes to: (1) the firm rate used by Midwest ISO for the purposes of “higher of” comparisons; or (2) the methodology used to calculate off-peak rates.

38. Finally, MSAT Companies state that the applicable charge for non-firm redirect service should be the higher of the original firm reservation rate, or the rate for the non-firm point-to-point transmission service that is provided when redirect rights are exercised as set forth in Schedule 8 of Midwest ISO’s tariff. MSAT Companies support Midwest ISO’s weekly and daily caps applicable to the charges that may be assessed for non-firm point-to-point transmission service.

#### **Constellation (Opposing Midwest ISO)**

39. Constellation argues that Midwest ISO’s proposal is unjust and unreasonable because it is inconsistent with Commission policy, including Order No. 888, and Midwest ISO has not met the Commission’s requirements to support a deviation from that policy. It argues that there should be no additional charges to a firm customer’s preexisting reservation rate when that customer redirects its service on a non-firm basis, except for an adjustment to the firm transmission rate when the customer redirects to a higher-priced zone. Constellation adds that the Commission should reject peak period pricing for non-firm redirects, but if the Commission does accept such pricing, various modifications are required to Midwest ISO’s proposal.

40. In particular, Constellation states that the Commission’s redirect policy established in Order No. 888 gives a transmission customer with a firm point-to-point transmission service reservation a right, at no additional charge beyond the applicable firm point-to-point transmission rate, to receive service on an as-available, non-firm basis over points of receipt and/or points of delivery other than those specified in the customer’s service

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<sup>14</sup> See Exhibit No. CCG-1 at p. 35, line 3 through p. 36, line 2.

agreement or confirmed OASIS reservation.<sup>15</sup> Constellation further states that redirects are not a separate non-firm point-to-point transmission service, but are an integral element of firm point-to-point transmission service.

41. Constellation also states that in the DTE complaint case,<sup>16</sup> the Commission rejected Midwest ISO's interpretation that the TEMT in effect prior to Midwest ISO's proposal allowed Midwest ISO to charge redirects the non-firm rate. Constellation states that the Commission stated that, under the existing TEMT, "the additional charge [for redirects] can only be the difference between the relevant zonal rates and not the 'higher of' non-firm hourly rate charged by Midwest ISO."<sup>17</sup> Constellation asserts that because Midwest ISO's proposal is meant only to clarify the practice that has since-been rejected, the Commission should reject Midwest ISO's proposal.

42. Constellation argues that Order No. 888 makes clear that the ability to redirect is part and parcel of firm transmission service. It explains that in return for paying the firm transmission rate for the firm reservation period, the transmission customer may redirect, on an as-available basis, at no additional charge beyond the applicable firm transmission rate. Constellation further asserts that the Commission recognized the value of redirect service by offering transmission providers the opportunity to increase their firm point-to-point rates through the use of a 12 coincident peak (12 CP rate design) which Midwest ISO's TEMT incorporates. Constellation concludes that Midwest ISO is compensated adequately for redirect service.

43. Constellation argues that the *Appalachian* method only applies to non-firm services and does not apply to firm service that is redirected. Indeed, Constellation asserts, firm point-to-point transmission customers that redirect on a non-firm basis have already paid for service over all on-peak and off-peak hours during the reservation period, *e.g.*, annual firm point-to-point transmission customers must pay for 8,760 hours of service, whether or not they actually schedule power in each of these hours. According to Constellation, if the *Appalachian* method were applied to non-firm redirect

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<sup>15</sup> Order No. 888 at 31,738; Order No. 888-A at 30,253, 30,528 (Appendix B-*Pro forma* OATT, section 22).

<sup>16</sup> *DTE Energy Trading, Inc. v. Midwest Independent Transmission System Operator, Inc.*, 111 FERC ¶ 61,062, at P 25-27 (2005) (DTE Complaint Order); *DTE Energy Trading, Inc. v. Midwest Independent Transmission System Operator, Inc.*, 113 FERC 61,214, at P 9 (2005) (DTE Rehearing Order).

<sup>17</sup> DTE Rehearing Order at P 9.

customers through the imposition of the non-firm point-to-point transmission rates under TEMT, Midwest ISO would recover more than 100 percent of fixed costs allocable to the redirecting firm customer.

44. Constellation further argues that Midwest ISO's firm point-to-point transmission service rate design recognizes the value of redirect flexibility. It states that although the flexibility to redirect is valuable, the Commission, in Order No. 888, fully accounted for this value in the pricing of firm point-to-point transmission service when it allowed transmission providers to design their firm point-to-point rates by dividing the revenue requirement by the annual system peak, which the Commission had previously required.

45. Constellation contends that Midwest ISO's gaming concerns are unfounded and do not provide justification for Midwest ISO's proposal. Constellation argues that it is not appropriate for a firm customer that uses its firm service flexibly by redirecting to contribute additional revenues based on time of use because the customer is already paying 100 percent of the costs allocated to it for its firm use of the system. Further, Constellation rejects Midwest ISO's argument that the ability to redirect to a higher-priced zone at no additional charge gives firm customers an incentive to reserve firm service to a low-cost zone, but redirect it to a higher-priced zone. Constellation argues that it is unlikely that a customer would reserve firm service on a path that it does not want or has no use for, commit to pay the associated firm reservation charges for all hours whether or not it actually schedules any energy over the unwanted reservation path, all in the hope that it will be able to redirect at a priority lower than non-firm service to that path that it really needs on an hourly basis. However, Constellation does agree that when a customer redirects to a higher-priced zone, the firm point-to-point rate should be adjusted to reflect the difference in the firm zonal rates.

46. Constellation rejects Midwest ISO's arguments and asserts that there are no revenues lost under the Commission's policy of requiring redirects to be provided on an as-available basis. It states that there are simply no costs left unassigned to firm customers that pay for their reservations under the firm point-to-point rate. Instead, according to Constellation, because the ability to redirect is part and parcel of firm service, and to be provided on an as-available basis at no additional charge, the only acceptable charge is the customer's firm rate, which the firm point-to-point customers are already required to pay. Moreover, Constellation states, since firm customers should be charged no more than the firm rate when they redirect, there are no revenue credits involved.

47. Constellation argues that the language in the MAPP OATT, contrary to Midwest ISO's assertions, does not support Midwest ISO's proposal. Constellation states that the MAPP OATT does not include *Appalachian* pricing, but rather, MAPP has a MW-mile rate design which implements an adjustment similar to the zonal adjustment of Midwest

ISO. Additionally, it states that the MAPP OATT offers discounts from the firm transmission rate for redirects and does not attach premiums beyond the applicable firm transmission rate.

48. In response to Midwest ISO's argument that Order No. 888 dealt with single pricing zones and not regional OATTs, Constellation states that a single utility with only one pricing zone is no different than any one pricing zone of a multi-utility RTO. Constellation further states that Order No. 888 envisioned that ISOs would offer regional service<sup>18</sup> and notes that the Commission has required ISOs to meet the requirements of Order No. 888 or demonstrate that deviations meet Order No. 888 standards.

49. If the Commission should determine that Midwest ISO's proposal has merit, Constellation requests certain modifications. Constellation states that the Commission should require Midwest ISO to use only currently effective rates in determining the "higher of" charge. Second, it asserts that Midwest ISO should be required to calculate the credit using the same denominator used to determine the charge for redirect. Third, it asserts that if the Commission permits peak period pricing, Midwest ISO should be required to base its off-peak redirect charges on 8,760 hours instead of 8,736 hours for non-firm off-peak rates and 8,760 hours to provide credits. It argues that it is fundamentally inconsistent to design rates based on 8,736 hours of service, but provide credits based on 8,760 hours. Fourth, it maintains that Midwest ISO should subject all charges from all redirects during all hours of the day to the daily cap, weighting the daily cap on each zone's daily rate by the number of hours during the day that the point of delivery is in each of the respective zones. Last, it asserts that Midwest ISO should allow redirects for periods longer than one hour.

#### **DTET (Opposing Midwest ISO)**

50. DTET raises issues similar to those raised by Constellation. DTET asserts that the right to redirect on a non-firm basis is an essential and integral feature of firm point-to-point transmission service created by the Commission in Order No. 888 to promote competitive bulk power markets that favor neither network service customers nor point-to-point customers. It explains that firm point-to-point transmission customers pay exactly what network service customers pay for firm transmission service under Midwest ISO's TEMT, and, in exchange for such payment, have the right under Commission policy to access secondary points of receipt and delivery on a basis comparable to that enjoyed by network service customers at no additional charge.

51. In response to Midwest ISO's argument that without an on-peak premium for redirect service, customers would be receiving premium on-peak service without paying

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<sup>18</sup> Order No. 888 at 31,730-32.

for it, DTET states that the Commission rejected this line of reasoning in Order Nos. 888 and 888-A where it allowed both network and point-to-point service to be priced on the same basis, but established a lower priority for the non-firm secondary point-to-point service than for either economy purchases for network customers or for stand alone non-firm point-to-point service.<sup>19</sup>

52. DTET also argues that if the Commission had intended that firm point-to-point service customers bear on-peak non-firm hourly charges each time they redirected service during peak periods, the Commission would not have repeatedly stated in Order Nos. 888 and 888-A that such access must be provided without additional cost. In this regard, DTET notes that the *Appalachian* method was adopted nearly 10 years before Order No. 888.

53. In response to Midwest ISO's argument that the *Appalachian* method is intended to ensure that stand-alone non-firm customers, who pay for use of the transmission grid only during selected on-peak hours, make the same contribution to fixed costs as a customer who has reserved capacity on a daily basis or longer, DTET states that this point belies the fact that firm point-to-point customers have already reserved capacity on a daily basis or longer and fully contributed to fixed costs for the term of their reservations.

54. DTET also takes issue with the cases cited by Midwest ISO in support of its argument that peak-period pricing had been approved by the Commission. DTET states that in *SPP* the Commission accepted tariff language that supports solely a geographic-based rate adjustment.<sup>20</sup> DTET states that in MAPP the issue presented to the Commission was whether a redirecting customer could enjoy the benefit of lower rates to the extent it redirected to lower cost paths. The Commission, DTET states, rejected this notion.<sup>21</sup>

55. DTET explains that non-firm redirect service is not stand-alone non-firm transmission service. It asserts that in DTET's complaint proceeding,<sup>22</sup> the Commission found that the lower priority of non-firm redirect service distinguished it from stand-alone non-firm service. DTET further states that in Order No. 888 the Commission

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<sup>19</sup> Order No. 888-A at 12,319-20.

<sup>20</sup> *Citing SPP; Southwest Power Pool, order on reh'g*, 85 FERC ¶ 61,031 (1998).

<sup>21</sup> *Citing MAPP Order.*

<sup>22</sup> *Citing DTE Complaint Order; DTE Rehearing Order.*

recognized the low priority of non-firm redirect service and urged customers who believed this low priority presented an unacceptable risk to take stand-alone non-firm point-to-point service.<sup>23</sup>

56. DTET requests that Midwest ISO's proposed rate change be rejected and Midwest be required to honor the terms of its existing tariff as recently reiterated by the Commission: "any additional charge for non-firm redirect service can only be the difference between the relevant zonal rates and not the "higher of" non-firm hourly rate charged by Midwest ISO... [and] must be pro-rated to reflect the duration of the redirected transaction."<sup>24</sup>

#### **Commission Staff (Opposing Midwest ISO)**

57. Staff opposes Midwest ISO's proposed tariff revisions. Staff states that in Order No. 888 the Commission made firm point-to-point transmission service comparable, though not identical, to network transmission service. It asserts that the Commission established network transmission service to include the right to modify the location of supply sources, on a non-firm basis, without additional charge. It adds that the Commission established firm point-to-point transmission service to include the right to modify both sources and sinks, also on a non-firm basis, and also at no additional charge. Thus, Staff concludes, as an offset to the greater flexibility on both ends of a path given firm point-to-point transmission service, the Commission provided it with a lower reservation and curtailment priority, relative to network service redirects. Staff notes that prior to Order No. 888 firm point-to-point transmission service often was priced based on a single coincident annual peak, which resulted in a typically sharp discount from a 12-month based rate. The Commission provided that both services be priced based on 12 monthly peaks, in contrast to the then current pricing based on a single coincident annual peak, which resulted in a sharp discount from a 12-month based rate.

58. Staff argues that the transmission owners have never accepted the Commission's decision. It asserts that this proceeding is not about precluding inappropriate gaming of the TEMT, but is about reducing firm point-to-point transmission customers' flexibility in using the Midwest ISO's transmission system and reducing competition. It further asserts that Midwest ISO's proposal would greatly increase the rates charged for redirected service, even where gaming is impossible.

59. Staff concedes that there is a logical reason to assess a modest surcharge, but only when a firm point-to-point transmission service customer takes non-firm redirect

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<sup>23</sup> Order No. 888-A at 12,320.

<sup>24</sup> DTE Rehearing Order at P 9.



transmission service over a path that changes its previously reserved delivery point to one in a higher priced zone. In all other respects, Staff asserts, Midwest ISO's proposed revisions should be rejected.

60. Staff asserts that there is no possibility to "game" the TEMT under most scenarios. Staff explains that a firm point-to-point customer pays rates based on the costs of the zone in which delivery is made. If redirect delivery is made in the same zone for which its original firm point-to-point transmission service was reserved or the delivery point is changed to a zone where the service would have cost the same or less, there is no way to "game" the rate structure. Staff cites testimony by Transmission Owners' witness Heintz, admitting that he could find no rationale to support Midwest ISO's proposed higher charges on redirects where the delivery point either remains the same, changes to a zone with the same rates, or changes to a zone with a lower rate.

61. Staff rejects Midwest ISO's argument that the proposed revisions are necessary to clarify that non-firm redirect service is no less valuable than non-firm point-to-point service. Staff maintains that non-firm redirect service is not as valuable as non-firm point-to-point transmission service, because it has the lowest reservation and curtailment priority.

62. Staff next asserts that Midwest ISO proposes to assess an extra fee that is excessive. It maintains that use of the *Appalachian Pricing Method* is not appropriate for redirect service because its implementation is based on the assumption that an hourly user is not paying for 24 hours of service, but rather, is only taking and paying for the peak 16 hours. Staff states that, under Midwest ISO's proposal, firm point-to-point customers who redirect would be paying not only for the full 24 hours under their original reservation but would also be paying a surcharge of  $1/24^{\text{th}}$  of the daily rate of the more expensive period. Staff concludes that when it is appropriate to charge for redirect service to preclude gaming, the charge should be based on the difference between  $1/24^{\text{th}}$  of the daily firm point-to-point transmission service rate of the original reservation, and  $1/24^{\text{th}}$  of the daily firm point-to-point transmission rate for the redirect path, for each hour of redirect. Anything above that, according to Staff, would be excessive.

63. Staff asserts that in the limited circumstances when a higher rate should be charged, the rate should be based on current firm point-to-point rates. According to Staff, it would be inappropriate for Midwest ISO to base its calculation on a rate that is no longer on file and effective, or a rate that is on file, but that is not the rate in the customer's Service Agreement.

64. Staff further maintains that Midwest ISO has failed to demonstrate that its proposed revisions are consistent with, or superior to, the *pro forma* OATT. Staff argues that while Midwest ISO contends that redirect service is a premium service deserving of a

premium charge, in Order No. 888 the Commission rejected that argument. Moreover, Staff argues, Midwest ISO's gaming argument is inapplicable to the majority of situations in which Midwest ISO would implement higher rates.

65. In response to Midwest ISO's position that the MAPP OATT has language similar to Midwest ISO's proposed revisions, Staff points out that the MAPP tariff uses megawatt-mile pricing, not zonal pricing, and has a discount policy that sharply discounts its hourly non-firm rates, which implies that MAPP seldom exceeds its firm rates.

### **Reply Briefs**

#### **Midwest ISO**

66. Midwest ISO reiterates the arguments contained in its initial brief in which it states that the Commission should accept its proposal without modification and reject proposals submitted by opposing parties. Midwest ISO reiterates its belief that its proposal is just and reasonable and necessary to deter "gaming." Midwest ISO also states that it should be compensated because redirect service during on-peak hours is more valuable than redirect during off-peak hours.

67. Midwest ISO asserts that the 12-month rate design is not a foreclosure to further claims of additional compensation for the provision of non-firm redirect service; rather it is a compromise in response to the argument from some utilities that it was unreasonable to give to firm point-to-point transmission service customers the option of redirecting service on a non-firm basis to any secondary receipt or delivery point at no charge while, at the same time, requiring network customers to purchase transmission for their off-system sales.

68. Midwest ISO contends that the MAPP OATT is effectively identical to its proposal and rejects opposing parties' interpretation that MAPP language differs from its proposal. Finally, Midwest ISO takes exception to DTET's suggestion that Midwest ISO is acting under direct orders from its Transmission Owners in requesting that additional charges be assessed for non-firm, redirected point-to-point service.

#### **Transmission Owners**

69. Transmission Owners restate their position that when a transmission customer redirects its service on a non-firm basis the customer should pay the applicable tariff peak period price for the peak period service being provided. They further state that in order to prevent double charges, the redirecting customer should also receive a full credit to the charge paid for its original firm reservation for any amount redirected.

70. Transmission Owners contend that Midwest ISO's proposal is not contrary to Order No. 888 because Order No. 888 did not address non-firm pricing for a large regional transmission organization such as Midwest ISO and did not preclude responding to the formation of ISOs in more than general principles.

71. In response to opposing parties argument that Midwest ISO's tariff proposal to use peak period pricing for non-firm redirect service is excessive because they believe a firm point-to-point customer has already paid for peak period usage under its original firm reservation, Transmission Owners contend that this argument fails to recognize that a firm point-to-point customer in the Midwest ISO only pays for the path between the receipt and delivery points specified in its original firm reservation. However, Transmission Owners explain that when a firm point-to-point customer redirects its original firm reservation to a higher-priced pricing zone on a non-firm basis, the peak period rate under the customer's original firm reservation is lower than the peak period rate for the non-firm redirect to the higher-priced zone and, in fact, a firm point-to-point customer may not have paid an amount that would include peak period usage along the non-firm redirected path. Transmission Owners reiterate that Midwest ISO's proposal provides a credit to the charge paid for the redirecting customer's original firm reservation for any amount redirected which means that the redirecting customer does not pay twice for the redirected service, but only pays for the new non-firm redirect service.

72. Similarly, Transmission Owners elaborate on the possibility for gaming, pointing out that a transmission customer would have the opportunity to redirect its firm point-to-point service in a lower-priced zone on a non-firm basis to a sink in a higher-priced zone for peak periods at a cost lower than if the customer had purchased a separate non-firm on-peak service into the higher-priced zone. Transmission Owners state that the customer would avoid paying the higher peak period pricing for the non-firm service by redirecting its original firm reservation restating that a firm point-to-point customer only pays for peak period usage for the specific points of receipt and delivery associated with its original firm reservation.

### **Midwest Stand-Alone Transmission Companies**

73. MSAT Companies restate their contention that Order No. 888 does not state that non-firm redirect service should be provided at no additional charge beyond applicable firm point-to-point rate. Rather, MSAT Companies state such reference refers to Midwest ISO's tariff. In response to Staff's statement that Midwest ISO is acting under direct orders from Transmission Owners, MSAT Companies assert that Midwest ISO's proposal would benefit all customers. MSAT Companies contend that to the extent Midwest ISO's proposal increases revenue, the result would lower base transmission rates in the following year.

74. MSAT Companies reiterate that Midwest ISO's proposal is just and reasonable and not unduly discriminatory and that opponents have not demonstrated otherwise.

### **Constellation**

75. Constellation reiterates arguments made in its initial brief, such as, that the Commission's redirect policy as established in Order No. 888 gives a transmission customer with a firm point-to-point transmission service reservation a right, at no additional charge beyond the applicable firm point-to-point transmission rate, to receive service on an as-available, non-firm basis over points of receipt and/or points of delivery other than those specified in the customer's service agreement. Constellation continues to assert that when a customer redirects to a higher-priced zone, the firm point-to-point rate should be adjusted to reflect the difference in the firm zonal rates.

### **DTET**

76. DTET reiterates that firm point-to-point customers should be able to access secondary points of receipt and delivery as part of their firm point-to-point service without incurring a separate on-peak hourly non-firm tariff charge. DTET further asserts that the geographic-based "higher of" rate construct adopted by the Commission accommodates RTOs spanning multiple service territories. DTET also states that the Commission has never sanctioned a time-of-use premium as part of Midwest ISO's "higher of" zonal rate construct.

### **Commission Staff**

77. Staff asserts that the Commission rejected arguments that redirect is a premium service deserving of a premium rate in its Notice of Proposed Rulemaking.<sup>25</sup> Staff reiterates that Midwest ISO's proposal would destroy the balance established in Order No. 888 between network and point-to-point transmission service and the level playing field for transmission owners and transmission customers sought by the Commission in Order No. 888.

78. Staff reiterates that Midwest ISO's proposed revisions are unjust and unreasonable and that no additional charges are warranted to prevent possible "gaming." Staff continues to request that Midwest ISO's proposal be rejected.

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<sup>25</sup> *Citing Promoting Wholesale Competition Through Open-Access Non-Discriminatory Transmission Service by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Notice of Proposed Rulemaking and Supplemental Notice of Proposed Rulemaking, FERC Stats. & Regs. ¶ 32,514 (1995).*

### **Commission Determination**

79. Upon review of the record and the briefs submitted in this proceeding, we conclude that Midwest ISO has not demonstrated that its proposed tariff revisions are consistent with, or superior to, the Order No. 888 *pro forma* OATT. Accordingly, we deny Midwest ISO's proposed tariff revisions setting forth a pricing standard for non-firm redirected transmission service.

80. In Order No. 888, the Commission attempted to strike a balance in designing network and point-to-point transmission services.<sup>26</sup> The Commission allowed network customers to make, at no additional charge, non-firm economy purchases, which are used to displace designated network resources, with a higher curtailment priority than non-firm point-to-point transmission service and secondary point-to-point transmission service under the tariff. Network customers, however, were not allowed to use any "excess" capacity to make off-system sales, which the Commission explained were sales other than those to serve the transmission provider's native load or a network customer's load. Rather, the Commission explained that if such a customer seeks to make such sales it is free to use point-to-point transmission service. On the other hand, the Commission allowed point-to-point transmission customers, as an integral feature of firm point-to-point transmission service, to make, at no additional charge, purchases and sales from modified points of receipt and points of delivery (*i.e.*, redirects). However, as noted, the Commission afforded this secondary use of point-to-point transmission service the lowest possible priority.

81. Significantly, in Order Nos. 888 and 888-A, a number of entities argued that it was unreasonable to permit firm point-to-point customers to receive non-firm service, up to their contract demand, at no additional charge, at secondary receipt and delivery points, but to require transmission providers and network customers to purchase transmission for all off-system sales.<sup>27</sup> The Commission rejected that argument. The Commission explained that it attempted to strike a balance on this issue by allowing both network and point-to-point transmission services to be priced on the same basis (*i.e.*, no longer summarily rejecting the use of the average of the 12 monthly system peaks as the denominator for the rate for point-to-point transmission service). By doing so, the Commission allowed transmission providers to charge a higher rate for firm point-to-

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<sup>26</sup> Order No. 888 at 31,751; Order No. 888-A at 30,253-54.

<sup>27</sup> "A common transmission provider argument is that the proposed firm point-to-point tariff provides a premium service comparable to network service, but at a lower rate. It has been suggested that either the flexibility to use non-firm service at secondary points of receipt and/or delivery at no additional charge under the point-to-point tariff be eliminated or that point-to-point customers should pay a premium price for such flexibility." Order No. 888 at 31,750.

point transmission service than it had allowed prior to Order No. 888.<sup>28</sup> The Commission also emphasized that it established a lower priority for the non-firm secondary point-to-point transmission service than for either economy purchases by network customers or for stand-alone non-firm point-to-point service.<sup>29</sup>

82. Midwest ISO and Transmission Owners have not justified why a change to these Order No. 888 findings is necessary.<sup>30</sup> They unconvincingly maintain that Midwest ISO's proposed tariff revisions are needed to ensure that redirecting customers pay the value of the service they receive and to prevent gaming. In this regard, Midwest ISO states that it "seeks nothing more than to confirm that the *Appalachian* rate design principles that already apply in the Midwest ISO are applicable to the pricing of non-firm redirect service and that 'the higher value of the on-peak hourly service is recognized as part of the zonal rate difference for purposes of non-firm redirect pricing.'"

83. As explained above, the Commission established in Order No. 888 the right of redirect on a non-firm basis as an integral feature of firm point-to-point transmission service. The Commission explicitly allowed non-firm redirects at no additional charge, fully aware of the *Appalachian* pricing method, which had been adopted nearly 10 years earlier.<sup>31</sup> The Commission did not apply the *Appalachian* method to non-firm redirect service, as it strove to balance the pluses and minuses between network service and point-to-point transmission service. Neither Midwest ISO nor Transmission Owners have provided a reasonable justification for changing the approach taken by the Commission in Order No. 888.

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<sup>28</sup> See Order No. 888 at 31,737-38.

<sup>29</sup> Order No. 888 at 31,751; Order No. 888-A at 30,253.

<sup>30</sup> Midwest ISO contends that Order No. 888 dealt with single pricing zones, not regional OATTs and, therefore, what the Commission said in Order No. 888 is not relevant to ISO OATTs. We disagree. Order No. 888 specifically envisioned ISOs that would offer regional service and the Commission has consistently required ISO OATTs to meet the requirements of Order No. 888 and to demonstrate that deviations from Order No. 888 meet the standards required under Order No. 888. (*See* Order No. 888 at 31,730-32; *see also Atlantic City Electric Company*, 77 FERC ¶ 61,148 (1996)). Thus, this is not a changed circumstance that arguably would support Midwest ISO's position.

<sup>31</sup> *See* DTE Complaint Order, where the Commission explained that "the status of non-firm redirect service as a lower priority service under the Midwest ISO OATT than other forms of transmission service makes it a distinct service from non-firm service, which is afforded a higher priority ...."

84. Significantly, the *Appalachian* method, contrary to Midwest ISO's and Transmission Owners' arguments, is inapplicable to non-firm redirect service. In adopting the *Appalachian* method, which the Commission applied only to the pricing of stand-alone non-firm transmission service, the Commission was addressing a concern that transmission customers would cherry pick a few peak hours of service and thereby avoid paying for a full day's worth of service. That concern, however, does not arise in the context of a firm point-to-point transmission customer redirecting on a non-firm basis. Such a customer, unlike a stand-alone non-firm point-to-point transmission customer, would already have paid for service over all on-peak and off-peak hours during the reservation period of its service (an annual firm point-to-point transmission customer must pay for 8,760 hours of service, whether or not it actually schedules power in each of those hours). In effect, the long-term firm point-to-point transmission customer has already paid for the entire day, so it cannot avoid paying the demand costs that were the concern in *Appalachian*, and gaming, as argued by Midwest ISO, cannot occur. Indeed, Midwest ISO's and Transmission Owners' gaming arguments make sense only in the context of redirects to a higher-priced zone, which the Commission has already allowed Midwest ISO to fix in its tariff,<sup>32</sup> and otherwise are unavailing.

85. We also find that Midwest ISO's assertion that the Commission's findings in the *MAPP Order* supports Midwest ISO's proposal in this proceeding is misplaced. While the language in the MAPP tariff is essentially the same as that proposed by Midwest ISO, the underlying rate design of MAPP (MW-mile method) is fundamentally different and thus provides no support for Midwest ISO's position. In the *MAPP Order* the Commission determined that MAPP's MW-mile rate for hourly non-firm point-to-point transmission service over a secondary path shall be the higher of the charge for hourly non-firm point-to-point transmission service or the original charge for service during the applicable period. This is because under MAPP's MW-mile rate design, each point of delivery/point of receipt pair has a different price (based on distance). If the price of the redirect pair is greater than the original firm reservation pair, the firm customer may be subject to a rate adjustment to reflect the higher pair price. This adjustment, similar to the zonal adjustment of Midwest ISO, is required by MAPP's MW-mile rate design. Intervenors in the *MAPP Order* were arguing that if the secondary receipt/delivery point rate is lower than the original firm reservation rate, then the customer should receive a discount. The Commission stated that it was reasonable that the customer continue to pay no less than the reservation charge because the customer retained the right to return to that original receipt or delivery point, and that the customer also should pay the higher rate when the customer switches from its original points to new, secondary points.<sup>33</sup> Therefore, the Commission rejected Intervenors' argument.

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<sup>32</sup> Citing DTE Complaint Order.

<sup>33</sup> MAPP Order at 61,533.

The Commission orders:

Midwest ISO's proposed tariff revisions are hereby denied.

By the Commission. Commissioner Moeller not participating.

( S E A L )

Magalie R. Salas,  
Secretary.